

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TIMOTHY HARNETT, also known
as Shaiabdullah Muhammad

Plaintiff,

-v.-

Civil Action No.
9:07-cv-952 (GLS/RFT)

K.D. TETREAULT, Staff Worker;
Clinton Correctional Facility, et al.;

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

TIMOTHY HARNETT
Plaintiff, *Pro Se*
01-A-3567
Attica Correctional Facility
Box 149
Attica, New York 14011

FOR THE DEFENDANTS:

HON. ANDREW M. CUOMO
Attorney General for the State of New York
Counsel for Defendants
The Capitol
Albany, New York 12224

SHOSHANAH V. ASNIS
Assistant Attorney General

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Randolph F. Treece, duly filed September 10, 2008. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein. The plaintiff was granted an extension until August 29, 2008 in which to file objections.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation¹ of Magistrate Judge Randolph F. Treece filed September 10, 2008 is ACCEPTED in its entirety for the reasons state therein, and it is further

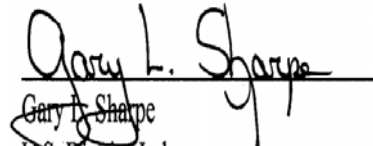
ORDERED, that the Defendants' Motion to Dismiss (Dkt. No. 39) is granted in part and denied in part as explained in the Report-Recommendation, and it is further

¹ The court notes that the Magistrate Judge advised the plaintiff that the United States Marshal cannot effectuate service upon the three John Doe defendant until Plaintiff provides their identities and addresses. Failure to serve the three John Doe Defendants will lead to the dismissal fo his claims against those individuals. The plaintiff is to provide a status report regarding his efforts to ascertain the identities of the three John Doe defendants within sixty (60) days from the filing of the Report-Recommendation. The deadline for discovery has been extended until January 30, 2009, the motion to compel deadline has been extended to March 1, 2009 and the deadline for Dispositive Motions was extended until June 30, 2009. Finally, Judge Treece denied defendants' request for a protective order barring discovery during the pendency of the motion to dismiss.

ORDERED, that the Defendants Eagen, Goord, and Artus, are directed to file an Answer to the Complaint within thirty (30) days from the date of this order.

IT IS SO ORDERED

Dated: September 30, 2008
Albany, New York



Gary L. Sharpe
U.S. District Judge